

# HOUSE BILL 123

R5  
HB 373/11 – ENV

2lr0718

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By: **Delegate Clagett**

Introduced and read first time: January 23, 2012

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Wireless Communication Devices – Enforcement of**  
3 **Prohibitions on Use While Driving**

4 FOR the purpose of repealing certain provisions of law that require enforcement as a  
5 secondary offense of certain violations involving the use of a wireless  
6 communication device while operating a motor vehicle; and generally relating to  
7 the enforcement of prohibitions against the use of a wireless communication  
8 device while operating a motor vehicle.

9 BY repealing and reenacting, with amendments,  
10 Article – Transportation  
11 Section 21–1124 and 21–1124.2  
12 Annotated Code of Maryland  
13 (2009 Replacement Volume and 2011 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Transportation**

17 21–1124.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public  
20 Safety Article.

21 (3) “Wireless communication device” means:

22 (i) A handheld or hands–free device used to access a wireless  
23 telephone service; or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) A text messaging device.

2 (b) This section does not apply to the use of a wireless communication device  
3 to contact a 9-1-1 system.

4 (c) A holder of a learner's instructional permit or a provisional driver's  
5 license who is under the age of 18 years may not use a wireless communication device  
6 while operating a motor vehicle.

7 (d) [A police officer may enforce this section only as a secondary action when  
8 the police officer detains a driver for a suspected violation of another provision of the  
9 Code.

10 (e)] (1) If the Administration receives satisfactory evidence that an  
11 individual has violated this section, the Administration:

12 (i) May suspend the individual's driver's license for not more  
13 than 90 days; and

14 (ii) May issue a restricted license for the period of suspension  
15 that is limited to driving a motor vehicle:

16 1. In the course of the individual's employment;

17 2. For the purpose of driving to or from a place of  
18 employment; or

19 3. For the purpose of driving to or from school.

20 (2) An individual may request a hearing as provided for a suspension  
21 or revocation under Title 12, Subtitle 2 of this article.

22 21-1124.2.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) "Handheld telephone" means a handheld device used to access  
25 wireless telephone service.

26 (3) "9-1-1 system" has the meaning stated in § 1-301 of the Public  
27 Safety Article.

28 (b) This section does not apply to:

29 (1) Emergency use of a handheld telephone, including calls to:

- 1 (i) A 9-1-1 system;
- 2 (ii) A hospital;
- 3 (iii) An ambulance service provider;
- 4 (iv) A fire department;
- 5 (v) A law enforcement agency; or
- 6 (vi) A first aid squad;

7 (2) Use of a handheld telephone by the following individuals when  
8 acting within the scope of official duty:

- 9 (i) Law enforcement personnel; and
- 10 (ii) Emergency personnel;

11 (3) Use of a handheld telephone as a text messaging device as defined  
12 in § 21-1124.1 of this subtitle; and

13 (4) Use of a handheld telephone as a communication device utilizing  
14 push-to-talk technology by an individual operating a commercial motor vehicle, as  
15 defined in 49 CFR Part 390.5 of the Federal Motor Carrier Safety Regulations.

16 (c) The following individuals may not use a handheld telephone while  
17 operating a motor vehicle:

18 (1) A driver of a Class H (school) vehicle that is carrying passengers  
19 and in motion; and

20 (2) A holder of a learner's instructional permit or a provisional driver's  
21 license who is 18 years of age or older.

22 (d) (1) This subsection does not apply to an individual specified in  
23 subsection (c) of this section.

24 (2) A driver of a motor vehicle that is in motion may not use the  
25 driver's hands to use a handheld telephone other than to initiate or terminate a  
26 wireless telephone call or to turn on or turn off the handheld telephone.

27 (e) [A police officer may enforce this section only as a secondary action when  
28 the police officer detains a driver for a suspected violation of another provision of the  
29 Code.

1           **(f)]** (1) A person convicted of a violation of this section is subject to the  
2 following penalties:

3                           (i) For a first offense, a fine of not more than \$40; and

4                           (ii) For a second or subsequent offense, a fine of \$100.

5                   (2) For a first offense under this section, points may not be assessed  
6 against the individual under § 16–402 of this article unless the offense contributes to  
7 an accident.

8           **[(g)] (F)** The court may waive a penalty under subsection **[(f)] (E)** of this  
9 section for a person who:

10                   (1) Is convicted of a first offense under this section; and

11                   (2) Provides proof that the person has acquired a hands-free  
12 accessory, an attachment or add-on, a built-in feature, or an addition for the person's  
13 handheld telephone that will allow the person to operate a motor vehicle in accordance  
14 with this section.

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2012.